

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

EARLEAN WALKER

CIVIL ACTION NO: 1:20-cv-1107

VERSUS

JUDGE:

WALMART INC.

MAGISTRATE:

NOTICE OF REMOVAL AND JURY DEMAND

TO: Greta Roaix– Deputy-in-Charge
United States District Court
Western District of Louisiana
Clerk of Court
515 Murray St., Suite 105
Alexandria, LA 71301

Mr. Brock H. Duke
Brian Caubarreaux & Associates
2204 MacArthur Drive
Alexandria, LA 71301
ATTORNEYS FOR PLAINTIFF

NOW INTO COURT, through undersigned counsel, comes WALMART INC. (“Walmart”), improperly denominated as Wal-Mart Stores, Inc. in the Petition for Damages (the “Petition”), defendant in the above entitled cause, and appearing solely for the purpose of presenting this Notice of Removal of the above entitled cause to this Honorable Court under the provisions of 28 U.S.C. § 1441, *et seq.*, and reserving all rights, respectfully shows as follows:

1.

This suit was filed by plaintiff in the 9th Judicial District Court, Civil Action No. 268,617 “A”, Rapides Parish, Louisiana, on July 27, 2020. (Ex. A). Walmart was served with a copy of plaintiff’s Petition and Citation on or about August 5, 2020. Id.

2.

Plaintiff is a citizen of Louisiana. (Ex. A).

3.

Defendant Walmart Inc. is a Delaware corporation with its principal place of business in Bentonville, Arkansas. Defendant is a publicly held company.

4.

In her Petition, plaintiff alleges that she injured her shoulder and left knee when she slipped and fell in a wet substance on the floor of the Walmart store. (Ex. A, ¶¶ 3,5).

5.

Consistent with Louisiana law, plaintiff does not allege any specific monetary amount of the value of her claims in her Petition.

6.

In a March 31, 2020, demand letter (the “Demand Letter”) that was sent pre-suit, plaintiff, through her attorney, demanded \$90,000.00 to settle this matter. (Ex. B).¹

7.

Based upon the Demand Letter, Walmart alleges the amount in controversy in this suit exceeds \$75,000.00, exclusive of interest and costs.

¹ “Pre-suit demand letters may be submitted as evidence to demonstrate that the amount in controversy exceeds \$75,000.” Molina v. Wal-Mart Stores Texas, L.P., 535 F. Supp. 2d 805, 808 (W.D. Tex. 2008) (citing St. Paul Reinsurance Co. v. Greenberg, 134 F.3d 1250, 1254 (5th Cir.1998)).

8.

Pursuant to 28 USC § 1446(b), this Notice of Removal is timely because the Notice of Removal is filed within one year after the commencement of the action and within thirty (30) days of receipt by the defendant of the initial pleading.

9.

This Court has jurisdiction of this cause of action under 28 USC § 1332.

10.

The proper court for removal is the United States District Court for the Western District of Louisiana.

11.

Defendant requests a trial by jury as to all issues triable by a jury.

12.

Defendant further shows unto the Court that immediately upon the filing of this Notice of Removal, a copy of same shall be served upon all adverse parties and a copy filed with the Clerk of the 9th Judicial District Court, Rapides Parish, Louisiana, all in accordance with 28 USC § 1446(d).

13.

Pursuant to Rule 11 of the Federal Rules of Civil Procedure, undersigned counsel certifies that he has read the foregoing Notice of Removal, that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the costs of litigation.

WHEREFORE, Walmart Inc. removes the above-entitled case from the state court to this Court and prays for a trial by jury.

Respectfully submitted,

CHADWICK & ODOM, LLC

BY: _____

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been served upon all counsel of record by placing same in the U.S. Mail, postage prepaid and properly addressed, or by fax, or by email, this 25 day of August 2020.

CHADWICK & ODOM, LLC

Gregory B. Odom, II